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ABSTRACT

The National School Lunch Act, enacted in 1946, is the cornerstone of food delivery legislation that feeds nearly 25 million American schoolchildren each day. Since then there have been numerous new acts and amendments that have further enlarged the scope of child nutrition. These laws are compiled to provide readily available information on the current provisions of the law for the use of members of Congress and their staffs, and for citizens interested in child nutrition legislation. (Author/MLF)

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COMPILATION

OF THE

NATIONAL SCHOOL LUNCH ACT

AND

THE CHILD NUTRITION ACT OF 1966

WITH

RELATED PROVISIONS OF LAW

AND

AUTHORITIES FOR COMMODITIES DISTRIBUTION

PREPARED BY THE

SELECT COMMITTEE ON NUTRITION AND HUMAN NEEDS UNITED STATES SENATE

DECEMBER 1974

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EA 007 636

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FOREWORD

As Chairman of the Select Committee on Nutrition and Human Needs, I have watched with great satisfaction the growth of legislation in the areas of nutrition.

Congress and the American people have responded to the problems of hunger with a dedication and commitment unequalled in the area of social legislation.

The National School Lunch Act (Public Law 79–396), enacted in 1946, is the cornerstone of our food delivery legislation. Today the School Lunch Program feeds nearly 25 million American schoolchildren each day. Since then there have been numerous new acts and amendments which have further enlarged the scope of child nutrition.

In 1954, the Special Milk Program was authorized; and, in 1961, Section 11—provisions for payment for free and reduced-price lunches—were authorized.

In 1966, the Child Nutrition Act (Public Law 89–642) brought into being the School Breakfast Program, and an expanded concept of nutrition for children from needy families; in 1968, the Special Food Service Program—the program for out-of-school nutrition—was established, bringing summer feeding programs as well as all-year programs under the Act.

Public Law 91–248, enacted in 1970, gave further clarification of the intent of Congress that every needy child receive a free or reduced-price lunch, and eligibility standards were set forth.

During the 92d Congress, two other Acts, Public Law 92–32, and Public Law 92–153 again gave specific direction to the Department of Agriculture particularly in the matter of eligibility standards and reimbursement rates for meals served. Again, in 1972, it became imperative for the Congress to take action in the field of child nutrition and Public Law 92–453, approved September 26, 1972, authorized major changes in the funding procedures for Section 4 lunches and breakfasts; extended the school breakfast and special feeding programs through 1975, increasing appropriations for both programs to "such sums as are necessary"; supplied a floor and a ceiling for eligibility standards for free and reduced-price lunches; increased the general assistance reimbursement rate to 8 cents per lunch; increased the authorization for equipment and changed the distribution formula so as to channel 50 percent of the appropriated funds to no-program schools; gave State and local school authorities the regulatory authority over competitive food service, and instituted a Special Supplemental Food Program for mothers and babies at nutritional risk.

In 1973, funds were made available from the Commodity Credit Corporation to purchase those commodities no longer in surplus—in order to insure a continued steady supply of food to the domestic feeding programs. Also, in 1973, reimbursement rates were raised

for lunch and breakfast; escalator clauses attached to the Consumer Price Index were added to guarantee automatic adjustment; eligibility for the Special Milk Program was expanded; eligibility for the reduced-price program was increased to 75 percent above the income poverty guidelines; and the Special Supplemental Food Program was extended to insure a program duration consistent with the original Congressional mandate.

During 1974, the Commodity Distribution Program was extended for 1 year; the per meal level of commodity assistance increased to 10 cents per meal, and made permanent with an automatic escalator clause. Also in 1974, the new reduced-price program was made permanent; the authorization for nonfood assistance was increased; and, the appropriation for the Special Supplemental Food Program was expanded.

In light of the numerous amendments to child nutrition legislation in recent years, I thought it would be useful to update and compile these laws for the use of Members of Congress and their staffs, and for citizens interested in child nutrition legislation, to provide readily available information on the current provisions of the law, and I have therefore directed that the following committee print be published.

GEORGE MCGOVERN, *Chairman.*

NATIONAL SCHOOL LUNCH ACT

AN ACT To provide assistance to the States in the establishment, maintenance, operation, and expansion of school-lunch programs, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National School Lunch Act." [1]

DECLARATION OF POLICY

SEC. 2. It is hereby declared to be the policy of Congress, as a measure of national security, to safeguard the health and well-being of the Nation's children and to encourage the domestic consumption of nutritious agricultural commodities and other food, by assisting the States, through grants-in-aid and other means, in providing an adequate supply of foods and other facilities for the establishment, maintenance, operation, and expansion of nonprofit school-lunch programs.

APPROPRIATIONS AUTHORIZED

SEC. 3.[2] For each fiscal year there is hereby authorized to be appropriated, out of money in the Treasury not otherwise appropriated, such sums as may be necessary to enable the Secretary of Agriculture (hereinafter referred to as "the Secretary") to carry out the provisions of this Act, other than "section 13". Appropriations to carry out the provisions of this Act and of the Child Nutrition Act of 1966 for any fiscal year are authorized to be made a year in advance of the beginning of the fiscal year in which the funds will become available for disbursement to the States. Notwithstanding any other provision of law, any funds appropriated to carry out the provisions of such Acts shall remain available for the purposes of the Act for which appropriated until expended.

APPORTIONMENTS TO STATES

SEC. 4.[3] The sums appropriated for any fiscal year pursuant to the authorization contained in section 3 of this Act, excluding the sum specified in section 5, shall be available to the Secretary for supplying agricultural commodities and other food for the program in accordance with the provisions of this Act. For each fiscal year the Secretary may make food assistance payments, at such times as he may determine, from the sums appropriated therefor, to each State educational

[1] Public Law 79-396, 60 Stat. 230.

[2] Sec. 3 was amended by Public Law 87-823, 76 Stat. 944, approved Oct. 15, 1962, further amended by Public Law 90-302, 82 Stat. 117, approved May 8, 1968 to include the exception of new sec. 13 as well as sec. 11. Sec. 11 was then deleted by Public Law 93-328, 88 Stat. 287, approved June 30, 1974. Final two sentences were added by Public Law 91-248, 84 Stat. 207, approved May 14, 1970.

[3] Sec. 4 was amended by the act of Oct. 15, 1962 Public Law 87-823, 76 Stat. 944. Amended further by Public Law 92-433, 86 Stat. 724, approved Sept. 26, 1972.

agency, in a total amount equal to the result obtained by multiplying the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary under subsection 9(a) of this Act) served during such fiscal year to children in schools in such State, which participate in the school lunch program under this Act under agreements with such State educational agency, by a national average payment per lunch for such fiscal year determined by the Secretary to be necessary to carry out the purposes of this Act: *Provided*, That in any fiscal year such national average payment shall not be less than 10 cents [4] per lunch and that the aggregate amount of the food assistance payments made by the Secretary to each State educational agency for any fiscal year shall not be less than the amount of the payments made by the State agency to participating schools within the State for the fiscal year ending June 30, 1972, to carry out the purposes of this section 4.

NONFOOD ASSISTANCE

SEC. 5.[5] Of the sums appropriated for any fiscal year pursuant to the authorization contained in section 3 of the Act, $10,000,000 shall be available to the Secretary for the purpose of providing, during such fiscal year, nonfood assistance for the school-lunch program pursuant to the provisions of this Act. The Secretary shall apportion among the States during each fiscal year the aforesaid sum of $10,000,000 and such apportionment among the States shall be on the basis of the factors, and in accordance with the standards set forth in section 4 with respect to the apportionment for agricultural commodities and other foods.

DIRECT FEDERAL EXPENDITURES

SEC. 6.[6](a)[7] The funds provided by appropriation or transfer from other accounts for any fiscal year for carrying out the provisions of this Act, and for carrying out the provisions of the Child Nutrition Act of 1966, other than section 3 thereof, less

(1) not to exceed 3½ per centum thereof which per centum is hereby made available to the Secretary for his administrative expenses under this Act and under the Child Nutrition Act of 1966;

(2) the amount apportioned by him pursuant to sections 4 and 5 of this Act and the amount appropriated pursuant to sections 11 and 13 of this Act and sections 4, 5 and 7 of the Child Nutrition Act of 1966; and

(3) not to exceed 1 per centum of the funds provided for carrying out the programs under this Act and the programs under the Child Nutrition Act of 1966, other than section 3, which per centum is hereby made available to the Secretary to supplement the nutritional benefits of these programs through

[4] This amount was increased by Public Law 93-150, 87 Stat. 560, approved November 7, 1973.

[5] Sec. 5 was amended by Public Law 87-823, 76 Stat. 945.

[6] See sec. 404 of the Agricultural Act of 1949, Public Law 81-439, 63 Stat. 1054, approved Oct. 31, 1949, authorizing the use of the services and facilities of Commodity Credit Corporation in carrying out programs under sec. 6. [NOTE: The corporation has since been dissolved and its functions transferred.]

[7] The text of subsection (a) was designated as such by Public Law 93-13, 87 Stat. 9, approved March 30, 1973.

grants to States and other means for nutritional training and education for workers, cooperators, and participants in these programs and for necessary surveys and studies of requirements for food service programs in furtherance of the purposes expressed in section 2 of this Act and section 2 of the Child Nutrition Act of 1966,

shall be available to the Secretary during such year for direct expenditure by him for agricultural commodities and other foods to be distributed among the States and schools and service institutions participating in the food service programs under this Act and under the Child Nutrition Act of 1966 in accordance with the needs as determined by the local school and service institution authorities.[a] The provisions of law contained in the proviso of the Act of June 28, 1937 (50 Stat. 323), facilitating operations with respect to the purchase and disposition of surplus agricultural commodities under section 32 of the Act approved August 24, 1935 (49 Stat. 774), as amended, shall, to the extent not inconsistent with the provisions of this Act, also be applicable to expenditures of funds by the Secretary under this Act.

(b) [b] As of February 15 of each fiscal year, the Secretary shall make an estimate of the value of agricultural commodities and other foods that will be delivered during that fiscal year to States for school food service programs under the provisions of this section, section 416 of the Agricultural Act of 1949, and section 32 of the Act of August 24, 1935. If such estimated value is less than 90 per centum of the value of such deliveries initially programed for that fiscal year, the Secretary shall pay to State educational agencies, by not later than March 15 of that fiscal year, an amount of funds that is equal to the difference between the value of such deliveries initially programed for such fiscal year and the estimated value as of February 15 of such fiscal year of the commodities and other foods to be delivered in such fiscal year. The share of such funds to be paid to each State educational agency shall bear the same ratio to the total of such payment to all such agencies as the number of meals served under the provisions of section 9(a) of this Act and section 4(e) of the Child Nutrition Act of 1966 during the preceding fiscal year bears to the total of all such meals served in all the States during such fiscal year: *Provided*, That in any State in which the Secretary directly administers school food service programs in the nonprofit private schools of such State, the Secretary shall withhold from the funds to be paid to any such State under the provisions of this subsection an amount that bears the same ratio to the total of such payment as the number of meals served in nonprofit private schools under the provisions of section 9(a) of this Act and section 4(e) of the Child Nutrition Act of 1966 during that fiscal year bears to the total of such meals served in all the schools in such State in such fiscal year. Each State educational agency, and the Secretary in the case of nonprofit private schools in which he directly administers school food service programs, shall promptly and equitably disburse such funds to schools participating in the lunch and breakfast programs under this Act and the Child Nutrition Act of 1966 and such

[a] This sentence was amended by Public Law 91-248, 84 Stat. 209, approved May 14, 1970.
[b] Sec. 1 (b), (c), (d) was amended by Public Law 93-150, 87 Stat. 560, approved November 7, 1973. These three subsections were first added by Public Law 93-13, 87 Stat. 9, approved March 30, 1973 to provide for fiscal year 1973.

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disbursements shall be used by such schools to obtain agricultural commodities and other foods for their food service program. Such food shall be limited to the requirements for lunches and breakfasts for children as provided for in the regulations by the Department of Agriculture under title 7, subtitle (b), chapter II, subchapter (a), parts 210 and 220.

(c) Notwithstanding any other provision of law, the Secretary, until such time as a supplemental appropriation may provide additional funds for the purpose of subsection (b) of this section, shall use funds appropriated by section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) to make any payments to States authorized under such subsection. Any section 32 funds utilized to make such payments shall be reimbursed out of any supplemental appropriation hereafter enacted for the purpose of carrying out subsection (b) of this section and such reimbursement shall be deposited into the fund established pursuant to section 32 of the Act of August 24, 1935, to be available for the purposes of said section 32.

(d) Any funds made available under subsection (b) or (c) of this section shall not be subject to the State matching provisions of section 7 of this Act.

(e) [10] For the fiscal year ending June 30, 1975, and subsequent fiscal years, the national average value of donated foods, or cash payments in lieu thereof, shall not be less than 10 cents per lunch, and that amount shall be adjusted on an annual basis each fiscal year after June 30, 1975, to reflect changes in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. Such adjustment shall be computed to the nearest one-fourth cent. Among those commodities delivered under this section, the Secretary shall give special emphasis to high protein foods, meat, and meat alternates.

PAYMENTS TO STATES

SEC. 7. Funds apportioned to any State pursuant to section 4 or 5 during any fiscal year shall be available for payment to such State for disbursement by the State educational agency, in accordance with such agreements not inconsistent with the provisions of this Act, as may be entered into by the Secretary and such State educational agency, for the purpose of assisting schools of that State during such fiscal year, in supplying (1) agricultural commodities and other foods for consumption by children and (2) nonfood assistance in furtherance of the school lunch program authorized under this Act. Such payments to any State in any fiscal year shall be made upon condition that each dollar thereof will be matched during such year from sources within the State determined by the Secretary to have been expended in connection with the school-lunch program under this Act. And for any fiscal year after 1965, such payments shall be made upon condition that each dollar will be so matched by $3. In the case of any State whose per capita income is less than the per capita income of the United States, the matching required for any fiscal year shall be decreased by the percentage which the State per capita income is below the per capita income of the United States. For the purpose of deter-

[10] This subsection was added by Public Law 93-326, 88 Stat. 286, approved June 30, 1974.

mining whether the matching requirements of this section and section 10, respectively, have been met, the reasonable value of donated services, supplies, facilities and equipment as certified, respectively, by the State educational agency and in case of schools receiving funds pursuant to section 10, by such schools (but not the cost or value of land, of the acquisition, construction, or alteration of buildings of commodities donated by the Secretary, or of Federal contributions), may be regarded as funds from sources within the State expended in connection with the school lunch program. For the fiscal year beginning July 1, 1972, State revenue (other than revenues derived from the program) appropriated or utilized specifically for program purposes (other than salaries and administrative expenses at the State, as distinguished from local level) shall constitute at least 4 per centum of the matching requirements for the preceding fiscal year; for each of the two succeeding fiscal years, at least 6 per centum of the matching requirement for the preceding fiscal year; for each of the subsequent two fiscal years; at least 8 per centum of the matching requirement for the preceding fiscal year; and for each fiscal year thereafter, at least 10 per centum of the matching requirement for the preceding fiscal year.[11, 12] The State revenues made available pursuant to the preceding sentence shall be disbursed to schools, to the extent the State deems practicable, in such manner that each school receives the same proportionate share of such revenues as it receives of the funds apportioned to the State for the same year under sections 4 and 11 of the National School Lunch Act and sections 4 and 5 of the Child Nutrition Act of 1966. The Secretary shall certify to the Secretary of the Treasury from time to time the amounts to be paid to any State under this section and the time or times such amounts are to be paid; and the Secretary of the Treasury shall pay to the State at the time or times fixed by the Secretary the amounts so certified.

STATE DISBURSEMENT TO SCHOOLS

SEC. 8. Funds paid to any State during any fiscal year pursuant to sections 4 and 5 shall be disbursed by the State educational agency in accordance with such agreements approved by the Secretary as may be entered into by such State agency and the schools in the State, to those schools in the State which the State educational agency, taking into account need and attendance, determines are eligible to participate in the school-lunch program. Such disbursement to any school shall be made only for the purpose of assisting it to finance the cost of obtaining agricultural commodities and other foods for consumption by children in the school-lunch program and nonfood assistance in connection with such program. Such food costs may include, in addition to the purchase price of agricultural commodities and other foods, the cost of processing, distributing, transporting, storing, or handling thereof. In no event shall such disbursement for food to any school for any fiscal year exceed an amount determined by multiplying the number of lunches served in the school in the school-lunch program under this Act during such year by the maximum Federal food-cost contribution rate for the State, for the type of lunch served, as pre-

[11] This sentence was added to Public Law 91-248, 84 Stat. 209, approved May 14, 1970.
[12] Further amended by Public L. 92-433, 86 Stat. 724, approved Sept. 26, 1972.

scribed by the Secretary. In any fiscal year in which the national average payment per lunch determined under section 4 is increased above the amount prescribed in the previous fiscal year, the maximum Federal food-cost contribution rate, for the type of lunch served, shall be increased by a like amount.[13] Lunch assistance disbursements to schools under this section and under section 11 of this Act may be made in advance or by way of reimbursement in accordance with procedures prescribed by the Secretary.

NUTRITIONAL AND OTHER PROGRAM REQUIREMENTS

SEC. 9.[14] (a) Lunches served by schools participating in the school-lunch program under this Act shall meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research; except that such minimum nutritional requirements shall not be construed to prohibit the substitution of foods to accommodate the medical or other special dietary needs of individual students.[15]

(b) The Secretary, not later than May 15 of each fiscal year, shall prescribe an income poverty guideline setting forth income levels by family size for use in the subsequent fiscal year, and such guideline shall not subsequently be reduced to be effective in such subsequent fiscal year. Any child who is a member of a household which has an annual income not above the applicable family-size income level set forth in the income poverty guideline prescribed by the Secretary shall be served a free lunch. Following the announcement by the Secretary of the income poverty guideline for each fiscal year, each State educational agency shall prescribe the income guidelines, by family size, to be used by schools in the State during such fiscal year in making determinations of those children eligible for a free lunch. The income guidelines for free lunches to be prescribed by each State educational agency shall not be less than the applicable family-size income levels in the income poverty guideline prescribed by the Secretary and shall not be more than 25 per centum above such family-size income levels. Each fiscal year, each State educational agency shall also prescribe income guidelines, by family size, to be used by schools in the State during such fiscal year in making determinations of those children eligible for a lunch at a reduced price, not to exceed 20 cents, if a school elects to serve reduced-price lunches. Such income guidelines for reduced-price lunches shall be prescribed at not more than 50 per centum above the applicable family-size income levels in the income poverty guideline prescribed by the Secretary, except that any local school authority having income guidelines for free or reduced price lunches which exceed those allowed by this subsection may continue to use such guidelines for determining eligibility until July 1, 1973, if such guidelines were established prior to July 1, 1972. Local school authorities shall publicly announce such income guidelines on or about the opening of school each fiscal year and shall make determinations with respect to the annual incomes of any household solely on the basis of a statement executed in such form as the Secretary may prescribe by

[13] This sentence was added by Public Law 93-150, 87 Stat. 560, approved November 7, 1973.

[14] Amended by Public Law 92-248, 84 Stat. 230, further amended by Public Law 92-433, 85 Stat. 719, approved Nov. 5, 1971, and by Public Law 92-433, 86 Stat. 724, approved Sept. 26, 1972.

[15] Exception added by Public Law 90-302, 82 Stat. 117, approved May 8, 1968.

an adult member of such household. No physical segregation of or other discrimination against any child eligible for a free lunch or a reduced-price lunch shall be made by the school nor shall there be any overt identification of any such child by special tokens or tickets, announced or published lists of names, or by other means.[16] *Provided further*, That, beginning with the fiscal year ending June 30, 1974,[17] State educational agencies are authorized to establish income guidelines for reduced price lunches at not more than 75 per centum above the applicable family size income levels in the income poverty guidelines as prescribed by the Secretary.

(c) School-lunch programs under this Act shall be operated on a nonprofit basis. Each school shall, insofar as practicable, utilize in its lunch program commodities designated from time to time by the Secretary as being in abundance, either nationally or in the school area, or commodities donated by the Secretary. Commodities purchased under the authority of section 32 of the Act of August 24, 1935 (49 Stat. 774), as amended, may be donated by the Secretary to schools, in accordance with the needs as determined by local school authorities, for utilization in the school-lunch program under this Act as well as to other schools carrying out nonprofit school-lunch programs and institutions authorized to receive such commodities. The Secretary is authorized to prescribe terms and conditions respecting the use of commodities donated under such section 32, under section 416 of the Agricultural Act of 1949, as amended, and under section 709 of the Food and Agriculture Act of 1965, as amended, as will maximize the nutritional and financial contributions of such donated commodities in such schools and institutions. The requirements of this section relating to the service of meals without cost or at a reduced cost shall apply to the lunch program of any school utilizing commodities donated under any of the provisions of law referred to in the preceding sentence. None of the requirements of this section in respect to the amount for "reduced cost" meals and to eligibility for meals without cost shall apply to nonprofit private schools which participate in the school lunch program under this Act until such time as the State educational agency, or in the case of such schools which participate under the provisions of section 10 of this Act the Secretary certifies that sufficient funds from sources other than children's payments are available to enable such schools to meet these requirements.

NONPROFIT PRIVATE SCHOOLS

SEC. 10. If, in any State, the State educational agency is not permitted by law to disburse the funds paid to it under this Act to nonprofit private schools in the State, or is not permitted by law to match Federal funds made available for use by such nonprofit private schools, the Secretary shall withhold from the funds apportioned to any such State under sections 4 and 5 of this Act an amount which bears the same ratio to such funds as the number of lunches, consisting of a combination of foods and meeting the minimum requirements prescribed by the Secretary pursuant to section 9, served in the fiscal year beginning two years immediately prior to the fiscal year for which the fed-

[16] This sentence was added by Public Law 93-150, 87 Stat. 560, approved Nov. 7, 1973.
[17] This provision was extended by Public Law 93-326, 88 Stat. 286, approved June 30, 1974.

eral funds are appropriated by all nonprofit private schools participating in the program under this Act within the State, as determined by the Secretary, bears to the participation rate for the State.[18] The Secretary shall disburse the funds so withheld directly to the nonprofit private schools within said State for the same purposes and subject to the same conditions as are authorized or required with respect to the disbursement to schools within the State by the State educational agency, including the requirement that any such payment or payments shall be matched, in the proportion specified in section 7 for such State, by funds from sources within the State expended by nonprofit private schools within the State participating in the school-lunch program under this Act. Such funds shall not be considered a part of the funds constituting the matching funds under the terms of section 7:[19] *Provided*, Beginning with the fiscal year ending June 30, 1974, the Secretary shall make payments from the sums appropriated for any fiscal year for the purposes of section 4 and section 11[20] of this Act directly to the nonprofit private schools in such State for the same purposes and subject to the same conditions as are authorized or required under this Act with respect to the disbursements by the State educational agencies.

SPECIAL ASSISTANCE

SEC. 11.[21](a) Except as provided in section 10 of this Act, in each fiscal year each State educational agency shall receive special-assistance payments in an amount equal to the sum of the product obtained by multiplying the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary pursuant to subsection 9(a) of this Act) served free to children eligible for such lunches in schools within that State during such fiscal year by the special-assistance factor for the free lunches prescribed by the Secretary for such fiscal year and the product obtained by multiplying the number of lunches served at a reduced price to children eligible for such reduced-price lunches in schools within that State during such fiscal year by the special-assistance factor for reduced-price lunches prescribed by the Secretary for such fiscal year. For the fiscal year beginning July 1, 1973, the Secretary shall prescribe a special-assistance factor for free lunches of not less than 45 cents and a special-assistance factor for reduced-price lunches which shall be 10 cents less than the special-assistance factor for free lunches. The Secretary shall prescribe on July 1 of each fiscal year, and on January 1, of each fiscal year, semiannual adjustments in the national average rates for lunches served under section 4 of the National School Lunch Act and the special-assistance factor for the lunches served under section 11 of the National School Lunch Act, and the national

[18] Provisions of this sentence substituted for the previous provisions by the Act of Oct. 15, 1962 (Public Law 87–823), 76 Stat. 945. Further amended by Public Law 91–248, 84 Stat. 208, approved May 14, 1970.

[19] Amended by Public Law 92–433, 86 Stat. 724, approved Sept. 26, 1972, to revise funding for nonprofit private schools lunch programs to conform with the new performance funding provided for in the school lunch program for public schools.

[20] Amended by Public Law 93–150, 87 Stat. 560, approved Nov. 7, 1973.

[21] Sec. 11 was amended by inserting new subsections (a), (b), and (c) and redesignating subsections (g) and (h) as (d) and (e) by Public Law 93–150, 87 Stat. 560, approved Nov. 7, 1973. New subsections (d and (e) were inserted by Public Law 78–823, 76 Stat. 946, amended by Public Law 91–248, 84 Stat. 211, approved May 14, 1970.

average rates for breakfasts served under section 4 of the Child Nutrition Act of 1966, as amended, that shall reflect changes in the cost of operating a school lunch and breakfast program under these Acts, as indicated by the change in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor: *Provided*, That the initial such adjustment shall reflect the change in the series for food away from home during the period September 1973, through November 1973: *Provided further*, That each subsequent adjustment shall reflect the changes in the series for food away from home for the most recent six-month period for which such data are available: *Provided further*, That such adjustments shall be computed to the nearest one-fourth cent. Notwithstanding the foregoing two sentences, (1) for the fiscal year beginning July 1, 1973, no special assistance factor under this section 11 shall, for any State, be less than the average reimbursement paid for each free lunch (in the case of the special assistance factor for free lunches), or for each reduced price lunch (in the case of the special assistance factor for reduced price lunches), in such State under this section in the fiscal year beginning July 1, 1972; and (2) adjustments required by the sentence immediately preceding this sentence shall be based on the special assistance factors for the fiscal year beginning July 1, 1973, as determined without regard to any increase required by the application of this sentence.

(b) Except as provided in section 10 of the Child Nutrition Act of 1966, the special-assistance payments made to each State agency during each fiscal year under the provisions of this section shall be used by such State agency to assist schools of that State in financing the cost of providing free and reduced-price lunches served to children pursuant to subsection 9(b) of this Act. The amount of such special assistance funds that a school shall from time to time receive, within a maximum per lunch amount established by the Secretary for all States, shall be based on the need of the school for such special assistance. Such maximum per lunch amounts established by the Secretary shall not be less than 60 cents.

(c) Special assistance payments to any State under this section shall be made as provided in the last sentence of section 7 of this Act.

(d) In carrying out this section, the terms and conditions governing the operation of the school lunch program set forth in other sections of this Act, including those applicable to funds apportioned or paid pursuant to section 4 or 5 but excluding the provisions of section 7 relating to matching, shall be applicable to the extent they are not inconsistent with the express requirements of this section.

(e)(1) Not later than January 1 of each year, each State educational agency shall submit to the Secretary, for approval by him as a prerequisite to receipt of Federal funds or any commodities donated by the Secretary for use in programs under this Act and the Child Nutrition Act of 1966, a State plan of child nutrition operations for the following fiscal year, which shall include, as a minimum, a description of the manner in which the State educational agency proposes (A) to use the funds provided under this Act and funds from sources within the State to furnish a free or reduced-price lunch to every needy child in accordance with the provisions of section 9; (B) to ex-

tend the school-lunch program under this Act to every school within the State, and (C) to use the funds provided under section 13 of this Act and section 4 of the Child Nutrition Act of 1966 and funds from sources within the State to the maximum extent practicable to reach needy children.

(2) Each school participating in the school-lunch program under this Act shall report each month to its State educational agency the average number of children in the school who received free lunches and the average number of children who received reduced price lunches during the immediately preceding month. Each participating school shall provide an estimate, as of October 1 and March 1 of each year, of the number of children who are eligible for a free or reduced price lunch.

(3) The State educational agency of each State shall report to the Secretary each month the average number of children in the State who received free lunches and the average number of children in the State who received reduced price lunches during the immediately preceding month. Each State educational agency shall provide an estimate as of October 1 and March 1 of each year, of the number of children who are eligible for a free or reduced price lunch.

MISCELLANEOUS PROVISIONS AND DEFINITIONS

SEC. 12.[22] (a) States, State educational agencies, and schools participating in the school-lunch program under this Act shall keep such accounts and records as may be necessary to enable the Secretary to determine whether the provisions of this Act are being complied with. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of five years, as the Secretary determines is necessary.

(b) The Secretary shall incorporate, in his agreements with the State educational agencies, the express requirements under this Act with respect to the operation of the school-lunch program under this Act insofar as they may be applicable and such other provisions as a his opinion are reasonably necessary or appropriate to effectuate the purpose of this Act.

(c) In carrying out the provisions of this Act, neither the Secretary nor the State shall impose any requirement with respect to teaching personnel, curriculum, instruction, methods of instruction, and materials of instruction in any school.

(d) For the purposes of this Act—

(1) "State" means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa.

(2) "State educational agency" means, as the State legislature may determine, (A) the chief State school officer (such as the State Superintendent of public instruction, commissioner of education, or similar officer), or (B) a board of education con-

[22] This sec. was previously sec. 11. Subsections (d) (1) through (4) were amended, and subsections (d) (5) and (6), added, by the act of Oct. 15, 1962, Public Law 87-823, 76 Stat. 945.

trolling the State department of education; except that in the District of Columbia it shall mean the Board of Education.

(3) "Nonprofit private school" means any private school exempt from income tax under section 501(c)(3) of the Internal Revenue Code of 1954.

(4) "Nonfood assistance" means equipment used by schools in storing, preparing, or serving food for school children.

(5) [23] "Participation rate" for a State means a number equal to the number of lunches, consisting of a combination of foods and meeting the minimum requirements prescribed by the Secretary pursuant to section 9, served in the fiscal year beginning two years immediately prior to the fiscal year for which the Federal funds are appropriated by schools participating in the program under this Act in the State, as determined by the Secretary.

(6) "Assistance need rate" (A) in the case of any State having an average annual per capita income equal to or greater than the average annual per capita income for all the States, shall be 5; and (B) in the case of any State having an averge annul per capita income less than the average annual per capita income for all the States, shall be the product of 5 and the quotient obtained by dividing the average annual per capita income for all the States by the average annual per capita income for all the States by the average annual per capita income for such State, except that such product may not exceed 9 for any such State. For the purposes of this paragraph the average annual per capita income for any State and for all the States shall be determined by the Secretary on the basis of the average annual per capita income for each State and for all the States for the three most recent years for which such data are available and certified to the Secretary by the Department of Commerce.

(7) "School" means any public or nonprofit private school of high school grade or under and, with respect to Puerto Rico, shall also include nonprofit child-care centers certified as such by the Governor of Puerto Rico.

SPECIAL FOOD SERVICE PROGRAM FOR CHILDREN

SEC. 13.[24] (a)(1)[25] There is hereby authorized to be appropriated such sums as are necessary for each of the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, to enable the Secretary to formulate and carry out a program to assist States through grants-in-aid and other means, to initiate, maintain, or expand nonprofit food service programs for children in service institutions. For purposes of this section, the term "service institutions" means private, nonprofit institutions or public institutions, such as child day-care centers, settlement houses, or recreation centers, which provide day care, or other child care where children are not maintained in residence, for children from areas in which poor economic conditions exist and from areas

[23] Subsection 12(d)(5) was amended by Public Law 91-248, 84 Stat. 207, approved May 14, 1970.

[24] Sec. 13 was added by Public Law 90-302, 82 Stat. 117, approved May 8, 1968.

[25] Sec. 13(a)(1) was amended by Public Law 92-32, 85 Stat. 85, approved June 30, 1971, and Public Law 92-433, 86 Stat. 724, approved Sept. 26, 1972.

in which there are high concentrations of working mothers, and includes public and private nonprofit institutions providing day care services for handicapped children.

(2)[26] Subject to all the provisions of this section, the term "service institutions" also includes public or private nonprofit institutions that develop special summer programs providing food service similar to that available to children under the National School Lunch or School Breakfast Programs during the school year, including such institutions providing day care for handicapped children. To the maximum extent feasible, consistent with the purposes of this section, special summer programs shall utilize the existing food services facilities of public and nonprofit private schools.

(b)(1) Of the funds appropriated for the purposes of this section for any fiscal year, the Secretary shall reserve 2 per centum for apportionment to Guam, Puerto Rico, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands. Guam, Puerto Rico, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands shall each be paid an amount which bears the same ratio to the total of such reserved funds as the number of children aged three to seventeen, inclusive, in each bears to the total number of children of such ages in all of them.

(2) From the remainder of the funds appropriated for any fiscal year, the Secretary shall pay to each State such sums as he deems appropriate, but not more than $50,000, as a basic grant. In addition, the Secretary shall allot to each State from the funds remaining after the basic grants have been made an amount which bears the same ratio to such remaining funds as the number of children in that State aged three to seventeen, inclusive in families with incomes of less than $3,000 per annum bears to the total number of such children in all the States. For the purposes of this paragraph, the term "State" does not include Guam, Puerto Rico, the Virgin Islands, Americans Samoa, and the Trust Territory of the Pacific Islands.

(c)(1) Funds paid to any State under this section shall be disbursed by the State educational agency to service institutions, selected on a nondiscriminatory basis by the State educational agency, (A) to reimburse the service institutions for the cost of obtaining agricultural commodities and other foods, and (B) for the purposes of paragraphs (2) and (3) of this subsection. The costs of obtaining agricultural commodities and other foods may include the cost of the processing, distributing, transporting, or handling thereof. Disbursement to participating service institutions shall be made at such rate of reimbursement per meal as the Secretary shall prescribe.

(2)[27] In circumstances of severe need where the rate per meal established by the Secretary is insufficient to carry on an effective feeding program, the Secretary may authorize financial assistance not to exceed 80 per centum of the operating costs of such a program, including the cost of obtaining, preparing, and serving food. Non-Federal contributions may be in cash or kind, fairly evaluated, including but not limited to equipment and services. In the selection of institutions to receive assistance under this subsection, the State educational

[26] Sec. 13(a)(2) was amended by Public Law 92-433, 86 Stat. 724, approved Sept. 26, 1972, by adding the last sentence.
[27] Sec. 13(c)(2) was amended by Public Law 92-32, 85 Stat. 85, approved June 30, 1971.

agency shall require the applicant institutions to provide justification of the need for such assistance.

(3) Not to exceed 25 per centum of the funds paid to any State may be used by the State to assist service institutions by paying not to exceed 75 percent centum of the cost of the purchase or rental of equipment other than land and buildings, for the storage, preparation, transportation, and serving to food to enable the service institutions to establish, maintain, and expand food service under this section.

(d) If in any State the State educational agency is not permitted by law or is otherwise unable to disburse the funds paid to it under this section to any service institution in the State, the Secretary shall without all funds apportioned under this section and shall disburse the funds so withheld directly to service institutions in the State for the same purpose and subject to the same conditions as are required of a State educational agency disbursing funds made available under this section.

(e) Notwithstanding the provisions of any other law, balances of funds appropriated for the purposes of this section and unobligated at the end of any fiscal year shall remain available for obligation during the first three months of the following fiscal year.

(f) [28] Service institutions to which funds are disbursed under this section shall serve meals consisting of a combination of foods and meeting minimum nutritional standards prescribed by the Secretary on the basis of tested nutritional research. Such meals shall be served without cost or at a reduced cost to children determined by the service institutions to be unable to pay the full cost. Such determinations shall be made by the service institution authorities in accordance with a publicly announced policy and plan applied equitably on the basis of criteria which, as a minimum, shall include the level of family income, including welfare grants, the number in the family unit, and the number of children in the family unit attending school or service institutions. In making such determination, service institution authorities should, to the extent practicable, consult with public welfare and health agencies. No physical segregation or other discrimination against any child shall be made because of his inability to pay nor shall there be any overt identification of any such child by special tokens or tickets, announced or published lists of names, or other means.

(g) If any State cannot utilize all funds apportioned to it, or if additional funds are made available for apportionment among the States, under this section, the Secretary shall make further apportionments to the remaining States in the manner prescribed in subsection (b).

(h)(1) The Secretary shall certify to the Secretary of the Treasury from time to time the amounts to be paid to any State under this section of the Act and the time or times such amounts are to be paid; and the Secretary of the Treasury shall pay to the State at the time or times fixed by the Secretary the amounts so certified.

(2) Each service institution participating under this section shall, insofar as practicable, utilize in its program foods designated from

[28] Subsection (f) was amended by Public Law 91-248, 84 Stat. 210, approved May 14, 1970.

time to time by the Secretary as being in abundance, either nationally or in the institution area, or foods donated by the Secretary. Irrespective of the amount of funds appropriated under this section, foods available under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) or purchased under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), or section 709 of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a–1), may be donated by the Secretary to service institutions in accordance with the needs as determined by authorities of these institutions for utilization in their feeding programs.

(3) The value of assistance to children under this section shall not be considered to be income or resources for any purpose under any Federal or State laws, including laws relating to taxation and welfare and public assistance programs. Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under this section.

(4) There is hereby authorized to be appropriated for any fiscal year such sums as may be necessary to the Secretary for his administrative expenses under this section.

(5) States, State educational agencies, and service institutions participating in programs under this section shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with this section and the regulations hereunder. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of five years, as the Secretary determines is necessary.

(i) [29] Notwithstanding any other provision of law, the Secretary of Agriculture is authorized to utilize, during the period May 15 to September 15, 1972, not to exceed $25,000,000 from funds available during the fiscal years 1972 and 1973 under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), to carry out the purposes of this section. Funds expended under the provisions of this paragraph shall be reimbursed out of any supplemental appropriation hereafter enacted for the purpose of carrying out section 13 of the National School Lunch Act, and such reimbursements shall be deposited into the fund established pursuant to section 32 of the Act of August 24, 1935, to be available for the purposes of said section 32. Funds made available under this subsection shall be in addition to direct appropriations or other funds available for the conduct of summer food service programs for children.

TEMPORARY EMERGENCY ASSISTANCE TO PROVIDE NUTRITIOUS MEALS TO NEEDY CHILDREN IN SCHOOLS

SEC. 13A. Notwithstanding any other provision of law, under such terms and conditions as he deems in the public interest, the Secretary of Agriculture is authorized to use an additional amount, not to exceed $30,000,000, of funds from section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), to supplement funds heretofore made available to carry out programs during the fiscal year 1970 to improve the nutrition of needy children in public and nonprofit private schools

[29] Subsection (i) was added by Public Law 92-433, 86 Stat. 724, approved Sept. 26, 1972.

participating in the national school lunch program under this Act or the school breakfast program under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

COMMODITY DISTRIBUTION PROGRAM

SEC. 14.[30] Notwithstanding any other provision of law, the Secretary, during the period beginning July 1, 1974, and ending June 30, 1975, shall—

(1) use funds available to carry out the provisions of section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) which are not expended or needed to carry out such provisions, to purchase (without regard to the provisions of existing law governing the expenditure of public funds) agricultural commodities and their products of the types customarily purchased under such section, for donation to maintain the annually programmed level of assistance for programs carried on under this Act, the Child Nutrition Act of 1966, and title VII of the Older Americans Act of 1965; and

(2) if stocks of the Commodity Credit Corporation are not available, use the funds of such Corporation to purchase agricultural commodities and their products of the types customarily available under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), for such donation.

NATIONAL ADVISORY COUNCIL

SEC. 15.[31] (a) There is hereby established a council to be known as the National Advisory Council on Child Nutrition (hereinafter in this section referred to as the "Council") which shall be composed of fifteen members appointed by the Secretary. One member shall be a school administrator, one member shall be a person engaged in child welfare work, one member shall be a person engaged in vocational education work, one member shall be a nutrition expert, one member shall be a school food service management expert, one member shall be a State superintendent of schools (or the equivalent thereof), one member shall be a supervisor of a school lunch program in a school system in an urban area (or the equivalent thereof), one member shall be a supervisor of a school lunch program in a school system in a rural area, one member shall be a State school lunch director (or the equivalent thereof), one member shall be a person serving on a school board, one member shall be a classroom teacher, and four members shall be officers or employees of the Department of Agriculture specially qualified to serve on the Council because of their education, training, experience, and knowledge in matters relating to child food programs.

(b) The eleven members of the Council appointed from outside the Department of Agriculture shall be appointed for terms of three years, except that the nine members first appointed to the Council shall be appointed as follows: Three members shall be appointed for terms of

[30] Sec. 14 was added by Public Law 93-326, 88 Stat. 286, approved June 30, 1974.
[31] Sec. 15 was added as sec. 14 by Public Law 91-248, 84 Stat. 213, approved May 14, 1970. It was redesignated sec. 15 by Public Law 93-150, 87 Stat. 560, approved Nov. 7, 1973. Subsections (a), (b), (c), and (e) were amended by Public Law 93-150, 87 Stat. 560, approved Nov. 7, 1973.

three years, three members shall be appointed for terms of two years, and three members shall be appointed for terms of one year. Thereafter all appointments shall be for a term of three years, except that a person appointed to fill an unexpired term shall serve only for the remainder of such term. Members appointed from the Department of Agriculture shall serve at the pleasure of the Secretary.

(c) The Secretary shall designate one of the members to serve as Chairman and one to serve as Vice Chairman of the Council.

(d) The Council shall meet at the call of the Chairman but shall meet at least once a year.

(e) Eight members shall constitute a quorum and a vacancy on the Council shall not affect its powers.

(f) It shall be the function of the Council to make a continuing study of the operation of programs carried out under the National School Lunch Act, the Child Nutrition Act of 1966, and any related Act under which meals are provided for children, with a view to determining how such programs may be improved. The Council shall submit to the President and the Congress annually a written report of the results of its study together with such recommendations for administrative and legislative changes as it deems appropriate.

(g) The Secretary shall provide the Council with such technical and other assistance, including secretarial and clerical assistance, as may be required to carry out its functions under this Act.

(h) Members of the Council shall serve without compensation but shall receive reimbursement for necessary travel and subsistence expenses incurred by them in the performance of the duties of the Council.

SEC. 15.[32] (a) In addition to funds appropriated or otherwise available, the Secretary is authorized to use, during the fiscal year ending June 30, 1971, not to exceed $35,000,000 in funds from Section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), to carry out the provisions of this Act, and during the fiscal year ending June 30, 1972, not to exceed $100,000,000 in funds from such section 32 to carry out the provisions of this Act relating to the service of free and reduced-price meals to needy children in schools and service institutions.

(b) Any funds unexpended under this section at the end of the fiscal year ending June 30, 1971, or at the end of the fiscal year ending June 30, 1972, shall remain available to the Secretary in accordance with the last sentence of section 3 of this Act, as amended.

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[32] Section 15 was added by Public Law 92-32, 85 Stat. 85, approved June 30, 1971. Although not deleted by subsequent legislation, the provisions of this section are no longer applicable.

CHILD NUTRITION ACT OF 1966

AN ACT To strengthen and expand food service programs for children

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Child Nutrition Act of 1966".[1]

DECLARATION OF PURPOSE

SEC. 2. In recognition of the demonstrated relationship between food and good nutrition and the capacity of children to develop and learn, based on the years of cumulative successful experience under the national school lunch program with its significant contributions in the field of applied nutrition research it is hereby declared to be the policy of Congress that these efforts shall be extended, expanded, and strengthened under the authority of the Secretary of Agriculture as a measure to safeguard the health and well-being of the Nation's children, and to encourage the domestic consumption of agricultural and other foods, by assisting States, through grants-in-aid and other means, to meet more effectively the nutritional needs of our children.

SPECIAL MILK PROGRAM AUTHORIZATION

SEC. 3.[2] There is hereby authorized to be appropriated for the fiscal year ending June 30, 1970, and for each succeeding fiscal year, such sums as may be necessary[3] to enable the Secretary of Agriculture, under such rules and regulations as he may deem in the public interest, to encourage consumption of fluid milk by children in the United States in (1) nonprofit schools of high school grade and under, and (2) nonprofit nursery schools, child-care centers, settlement houses, summer camps, and similar nonprofit institutions devoted to the care and training of children. For the purposes of this section "United States" means the fifty States, Guam, and the District of Columbia. The Secretary shall administer the special milk program provided for by this section to the maximum extent practicable in the same manner as he administered the special milk program provided for by Public Law 89-642, as amended, during the fiscal year ending June 30, 1969. Any school or nonprofit child care institution shall receive the special milk program upon their request. Children that qualify for free lunches under guidelines set forth by the Secretary shall also be eligible for free milk.[4] For the fiscal year ending June 30, 1975, and for subsequent fiscal years, the minimum rate of reimbursement

[1] Public Law 89-642, 80 Stat. 885, approved Oct. 11, 1966.
[2] Amended by Public Law 91-295, 84 Stat. 336, approved June 30, 1970 after the time prescribed by the Constitution of the United States for Presidential approval had expired without such approval.
[3] Amended by Public Law 93-347, 88 Stat. 340, approved July 12, 1974.
[4] This sentence was added by Public Law 93-150, 87 Stat. 560, approved Nov. 7, 1973.

for a half-pint of milk served in schools and other eligible institutions shall not be less than 5 cents per half-pint served to eligible children, and such minimum rate of reimbursement shall be adjusted on an annual basis each fiscal year thereafter, beginning with the fiscal year ending June 30, 1976, to reflect changes in the series of food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. Such adjustment shall be computed to the nearest one-fourth cent.[5]

SCHOOL BREAKFAST PROGRAM AUTHORIZATION

SEC. 4.[6] (a)[7] There is hereby authorized to be appropriated such sums as are necessary for the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, to enable the Secretary to carry out a program to assist the States through grants-in-aid and other means to initiate, maintain, or expand nonprofit breakfast programs in all schools which make application for assistance and agree to carry out a nonprofit breakfast program in accordance with this Act. Appropriations and expenditures for this Act shall be considered Health, Education, and Welfare functions for budget purposes rather than functions of Agriculture.

APPORTIONMENT TO STATES

(b) Of the funds appropriated for the purposes of this section, the Secretary shall for the fiscal year ending June 30, 1973, (1) apportion $2,600,000 equally among the States other than Guam, the Virgin Islands, and American Samoa and $45,000 equally among Guam, the Virgin Islands, and American Samoa, and (2) apportion the remainder among the States in accordance with the apportionment formula contained in section 4 of the National School Lunch Act, as amended. For each fiscal year beginning with the fiscal year ending June 30, 1974, the Secretary shall make breakfast assistance payments, at such times as he may determine, from the sums appropriated therefor, to each State educational agency, in a total amount equal to the result obtained by (1) multiplying the number of breakfasts (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary pursuant to subsection (e) of this section) served during such fiscal year to children in schools in such States which participate in the breakfast program under this section under agreements with such State educational agency by a national average breakfast payment prescribed by the Secretary for such fiscal year to carry out the purposes of this section; (2) multiplying the number of such breakfasts served free to children eligible for free breakfasts in such schools during such fiscal year by a national average free breakfast payment prescribed by the Secretary for such fiscal year to carry out the purposes of this section; and (3) multiplying the number of reduced price breakfasts served to children eligible for reduced price breakfasts in such schools during

[5] The last two sentences were added by Public Law 93-347, 88 Stat. 340, approved July 12, 1974.
[6] Amended by Public Law 90-302, 82 Stat. 119, approved May 8, 1968.
[7] Amended by Public Law 92-32, 85 Stat. 85, approved June 30, 1971, and by Public Law 92-433, 86 Stat. 724, approved Sept. 26, 1972.

such fiscal year by a national average reduced price breakfast payment prescribed by the Secretary for such fiscal year to carry out the provisions of this section: *I rovided*, That in any fiscal year the aggregate amount of the breakfast assistance payments made by the Secretary to each State educational agency for any fiscal year shall not be less than the amount of the payments made by the State educational agency to participating schools within the State for the fiscal year ending June 30, 1972, to carry out the purposes of this section. The national average payment established by the Secretary for all breakfasts served to eligible children shall not be less than 8 cents; an amount of not less than 15 cents shall be added for each reduced-price breakfast; and an amount of not less than 20 cents shall be added for each free breakfast. In cases of severe need, a payment of up to 45 cents may be made for each breakfast served to children qualifying for a free breakfast.[8]

STATE DISBURSEMENT TO SCHOOL

(c)[9] Funds apportioned and paid to any State for the purpose of this section shall be disbursed by the State educational agency to schools selected by the State educational agency to assist such schools in financing the costs of operating a breakfast program and for the purpose of subsection (d). Disbursement to schools shall be made at such rates per meal or on such other basis as the Secretary shall prescribe. In selecting schools for participation, the State educational agency shall, to the extent practicable, give first consideration to those schools drawing attendance from areas in which poor economic conditions exist, to those schools in which a substantial proportion of the children enrolled must travel long distances daily, and to those schools in which there is a special need for improving the nutrition and dietary practices of children of working mothers and children from low-income families. Breakfast assistance disbursements to schools under this section may be made in advance or by way of reimbursement in accordance with procedures prescribed by the Secretary.

(d)[10] In circumstances of severe need where the rate per meal established by the Secretary is deemed by him insufficient to carry on an effective breakfast program in a school, the Secretary may authorize financial assistance up to 100 per centum of the operating costs of such a program, including costs of obtaining, preparing, and serving food. In the selection of schools to receive assistance under this section, the State educational agency shall require applicant schools to provide justification of the need for such assistance.

NUTRITIONAL AND OTHER PROGRAM REQUIREMENTS

(e)[11] Breakfasts served by schools participating in the school breakfast program under this section shall consist of a combination of foods

[8] The last two sentences were added by Public Law 93-150, 87 Stat. 560, approved Nov. 7, 1973.

[9] Subsection (c) was amended by Public Law 92-32, 85 Stat. 85, approved June 30, 1971 and again by Public Law 93-150, 87 Stat. 560, approved Nov. 7, 1973.

[10] Subsecs. (c) and (d) were amended by Public Law 92-32, 85 Stat. 85, approved June 30, 1971.

[11] Subsecs. (e) and (f) were amended by Public Law 92-248, 84 Stat. 210, approved May 14, 1970, and by Public Law 92-32, and by Public Law 92-433, 86 Stat. 734, Sept. 26, 1972.

and shall meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research. Such breakfasts shall be served free or at a reduced price to children in school under the same terms and conditions as are set forth with respect to the service of lunches free or at a reduced price in section 9 of the National School Lunch Act.

NONPROFIT PRIVATE SCHOOLS

(f) For the fiscal year ending June 30, 1973, any withholding of funds for and disbursement to nonprofit private schools shall be effected in the manner used prior to such fiscal year. Beginning with the fiscal year ending June 30, 1974, the Secretary shall make payments from the sums appropriated for any fiscal year for the purposes of this section directly to the nonprofit private schools within a State, that participate in the breakfast program under an agreement with the Secretary, for the same purposes and subject to the same conditions as are authorized or required under this section with respect to the disbursements by State educational agencies.

NONFOOD ASSISTANCE PROGRAM AUTHORIZATION

SEC. 5.[12] (a) There is hereby authorized to be appropriated for the fiscal year ending June 30, 1971, not to exceed $38,000,000 for the fiscal year ending June 30, 1972, not to exceed $33,000,000, for each of the three fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, not to exceed $40,000,000 and for each succeeding fiscal year, not to exceed $40,000,000, to enable the Secretary to formulate and carry out a program to assist the States through grants-in-aid and other means to supply schools drawing attendance from areas in which poor economic conditions exist with equipment, other than land or buildings, for the storage, preparation, transportation, and serving of food to enable such schools to establish, maintain, and expand school food service programs. In the case of a nonprofit private school, such equipment shall be for use of such school principally in connection with child feeding programs authorized in this Act and in the National School Lunch Act, as amended, and in the event such equipment is no longer so used, it may be transferred to another nonprofit private school participating in any of such programs or to a public school participating in any of such programs, or, failing either of these dispositions, that part of such equipment financed with Federal funds, or the residual value thereof, shall revert to the United States.

(b) Except for the funds reserved under subsection (e) of this section, the Secretary shall apportion the funds appropriated for the purposes of this section among the States on the basis of the ratio that the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary pursuant to section 9 of the National School Lunch Act) served in each State in the latest preceding fiscal year for which the Secretary determines data are available at the time such funds are apportioned bears to the total number of such lunches served in all States in such preceding fiscal year. If any State cannot utilize all of the

[12] Subsec. (a) was amended by Public Law 91-248, 84 Stat. 210, approved May 14, 1970, and Public Law 92-433, 86 Stat. 724, approved Sept. 26, 1972. Subsec. (a) was amended by Public Law 91-248. Further amended by Public Law 92-433.

funds apportioned to it under the provisions of this subsection, the Secretary shall make further apportionments to the remaining States in the manner set forth in this subsection for apportioning funds among all the States. Payments to any State of funds apportioned under the provisions of this subsection for any fiscal year shall be made upon condition that at least one-fourth of the cost of equipment financed under this subsection shall be borne by funds from sources within the State.

STATE DISBURSEMENT TO SCHOOLS

(c) Funds apportioned and paid to any State for the purpose of this section shall be disbursed by the State educational agency to assist schools, which draw attendance from areas in which poor economic conditions exist and which have no, or grossly inadequate equipment, to conduct a school food service program, and to acquire such equipment. In the selection of schools to receive assistance under this section, the State educational agency shall require applicant schools to provide justification of the need for such assistance and the inability of the school to finance the food service equipment needed. Disbursements to any school may be made by advances or reimbursements, only after approval by the State educational agency of a request by the school for funds, accompanied by a detailed description of the equipment to be acquired and the plans for the use thereof in effectively meeting the nutritional needs of childen in the school.

NONPROFIT PRIVATE SCHOOLS

(d)[13] If, in any State, the State educational agency is prohibited by law from administering the program authorized by this section in nonprofit private schools within the State, the Secretary shall administer such program in such private schools. In such event, the Secretary shall withhold from the funds apportioned to any such State under the provisions of subsection (b) of this section an amount which bears the same ratio to such funds as the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary pursuant to section 9(a) of the National School Lunch Act) served in nonprofit private schools in such State in the latest preceding fiscal year for which the Secretary determines data are available at the time such funds are withheld bears to the total number of such lunches served in all schools within such State in such preceding fiscal year.

RESERVE OF FUNDS

(e) In each of the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, 50 per centum of the funds appropriated for the purposes of this section shall be reserved by the Secretary to assist schools without a food service. The Secretary shall apportion the funds so reserved among the States on the basis of the ratio of the number of children enrolled in schools without a food service in the State for the latest fiscal year for which the Secretary determines

[13] Subsec. 5 (d) and (e) were amended by Public Law 92-433, 86 Stat. 724, approved Sept. 26, 1972.

data are available at the time such funds are apportioned to the total number of children enrolled in schools without a food service in all States in such fiscal year. In those States in which the Secretary administers the nonfood assistance program in nonprofit private schools, the Secretary shall withhold from the funds apportioned to any such State under this subsection an amount which bears the same ratio to such funds as the number of children enrolled in nonprofit private schools without a food service in such State for the latest fiscal year for which the Secretary determines data are available at the time such funds are withheld bears to the total number of children enrolled in all schools without food service in such State in such fiscal year. The funds reserved, apportioned, and withheld under the authority of this subsection shall be used by State educational agencies, or the Secretary in the case of nonprofit private schools, only to assist schools without a food service. If any State cannot utilize all the funds apportioned to it under the provisions of this subsection to assist schools in the State without a food service, the Secretary shall make further apportionments to the remaining States in the same manner as set forth in this subsection for apportioning funds among all the States and such remaining States, or the Secretary in the case of nonprofit private schools, shall use the additional funds so apportioned or withheld only to assist schools in the State without a food service. Payments to any State of the funds apportioned under the provisions of this paragraph shall be made upon condition that at least one-fourth of the cost of equipment financed shall be borne by funds from sources within the State, except that such condition shall not apply with respect to funds used under this section to assist schools without food service if such schools are especially needy, as determined by the State.

PAYMENTS TO STATES

SEC. 6. The Secretary shall certify to the Secretary of the Treasury from time to time the amounts to be paid to any State under sections 3 through 7 of this Act and the time or times such amounts are to be paid; and the Secretary of the Treasury shall pay to the State at the time or times fixed by the Secretary the amounts so certified.

STATE ADMINISTRATIVE EXPENSES

SEC. 7.[14] The Secretary may utilize funds appropriated under this section for advances to each State educational agency for use for its administrative expenses or for the administrative expenses of any other designated State agency in supervising and giving technical assistance to the local school districts and service institutions in their conducting of programs under this Act and under sections 11 and 13 of the National School Lunch Act. Such funds shall be advanced only in amounts and to the extent determined necessary by the Secretary to assist such State agencies in the administration of additional activities undertaken by them under sections 11 and 13 of the National School Lunch Act, as amended, and sections 4 and 5 of this Act including additional activities undertaken in the distribution of donated

[14] Sec. 7 was amended by Public Law 90-302, 82 Stat. 119, approved May 8, 1968, further amended by Public Law 91-248, 84 Stat. 210, approved May 14, 1970.

commodities. There are hereby authorized to be appropriated such sums as may be necessary for the purposes of this section.

UTILIZATION OF FOODS

SEC. 8. Each school participating under section 4 of this Act shall, insofar as practicable, utilize in its program foods designated from time to time by the Secretary as being in abundance, either nationally or in the school area, or foods donated by the Secretary. Foods available under section 416 of the Agricultural Act of 1949 (63 Stat. 1058), as amended, or purchased under section 32 of the Act of August 24, 1935 (49 Stat. 774) as amended, or section 709 of the Food and Agriculture Act of 1965 (79 Stat. 1212), may be donated by the Secretary to schools, in accordance with the needs as determined by local school authorities, for utilization in their feeding programs under this Act.

NONPROFIT PROGRAMS

SEC. 9. The food and milk service programs in schools and nonprofit institutions receiving assistance under this Act shall be conducted on a nonprofit basis.

REGULATIONS

SEC. 10.[15] The Secretary shall prescribe such regulations as he may deem necessary to carry out this Act and the National School Lunch Act, including regulations relating to the service of food in participating schools and service institutions in competition with the programs authorized under this Act and the National School Lunch Act. Such regulations shall not prohibit the sale of competitive foods in food service facilities or areas during the time of service of food under this Act or the National School Lunch Act if the proceeds from the sales of such foods will inure to the benefit of the schools or of organizations of students approved by the schools. In such regulations the Secretary may provide for the transfer of funds by any State between the programs authorized under this Act and the National School Lunch Act on the basis of an approved State plan of operation for the use of the funds and may provide for the reserve of up to 1 per centum of the funds available for apportionment to any State to carry out special developmental projects.

PROHIBITIONS

SEC. 11. (a) In carrying out the provisions of sections 3 through 5 of this Act, neither the Secretary nor the State shall impose any requirements with respect to teaching personnel, curriculum, instruction, methods of instruction, and materials of instruction.

(b) The value of assistance to children under this Act shall not be considered to be income or resources for any purpose under any Federal or State laws including, but not limited to, laws relating to taxation, welfare, and public assistance programs. Expenditures of funds from State and local sources for the maintenance of food pro-

[15] Sec. 10 was amended by Public Law 91-248, and by Public Law 92-433, 86 Stat. 724, Sept. 26, 1972.

grams for children shall not be diminished as a result of funds received under this Act.

PRESCHOOL PROGRAMS

SEC. 12. The Secretary may extend the benefits of all school feeding programs conducted and supervised by the Department of Agriculture to include preschool programs operated as part of the school system.

CENTRALIZATION OF ADMINISTRATION

SEC. 13. Authority for the conduct and supervision of Federal programs to assist schools in providing food service programs for children is assigned to the Department of Agriculture. To the extent practicable, other Federal agencies administering programs under which funds are to be provided to schools for such assistance shall transfer such funds to the Department of Agriculture for distribution through the administrative channels and in accordance with the standards established under this Act and the National School Lunch Act.

SEC. 14. There is hereby authorized to be appropriated for any fiscal year such sums as may be necessary to the Secretary for his administrative expense under this Act.

MISCELLANEOUS PROVISIONS AND DEFINITIONS

SEC. 15. For the purposes of this Act—

(a) "State" means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa.

(b) "State educational agency" means, as the State legislature may determine, (1) the chief State school officer (such as the State superintendent of public instruction, commissioner of education, or similar officer), or (2) a board of education controlling the State department of education.

(c) "Nonprofit private school" means any private school exempt from income tax under section 501(c)(3) of the Internal Revenue Code of 1954.

(d) "School" means any public or nonprofit private school of high school grade or under, including kindergarten and preschool programs operated by such school and, with respect to Puerto Rico, shall also include nonprofit child-care centers certified as such by the Governor of Puerto Rico.

(e) "Secretary" means the Secretary of Agriculture.

ACCOUNTS AND RECORDS

SEC. 16. States, State educational agencies, schools, and nonprofit institutions participating in programs under this Act shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with this Act and the regulations hereunder. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of three years, as the Secretary determines is necessary.

SPECIAL SUPPLEMENTAL FOOD PROGRAM

SEC. 17.[16] (a) [17] During each of the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, the Secretary shall make cash grants to the health department or comparable agency of each State; Indian tribe, band, or group recognized by the Department of the Interior; or the Indian Health Service of the Department of Health, Education, and Welfare for the purpose of providing funds to local health or welfare agencies or private nonprofit agencies of such State; Indian tribe, band, or group recognized by the Department of the Interior; or the Indian Health Service of the Department of Health, Education, and Welfare, serving local health or welfare needs to enable such agencies to carry out a program under which supplemental foods will be made available to pregnant or lactating women and to infants determined by competent professionals to be nutritional risks because of inadequate nutrition and inadequate income. Such program shall be operated for a three-year period and may be carried out in any area of the United States without regard to whether a food stamp program or a direct food distribution program is in effect in such area.

(b) [18] In order to carry out the program provided for under subsection (a) of this section during the fiscal year ending June 30, 1973, the Secretary shall use $20,000,000 out of funds appropriated by section 32 of the Act of August 24, 1935 (7 U.S.C. 612(c)). In order to carry out such program during the fiscal year ending June 30, 1974, there is authorized to be appropriated the sum of $20,000,000, but in the event that such sum has not been appropriated for such purpose by August 1, 1973, the Secretary shall use $20,000,000, or, if any amount has been appropriated for such program, the difference, if any, between the amount directly appropriated for such purpose and $20,000,000, out of funds appropriated by section 32 of the Act of August 24, 1935 (7 U.S.C. 612(c)). In order to carry out such program during the fiscal year ending June 30, 1975, there is authorized to be appropriated the sum of $100,000,000, but in the event that such sum has not been appropriated for such purpose by August 1, 1974, the Secretary shall use $100,000,000, or, if any amount has been appropriated for such program, the difference, if any, between the amount directly appropriated for such purpose and $100,000,000, out of funds appropriated by section 32 of the Act of August 24, 1935 (7 U.S.C. 612(c)).[19] Any funds expended from such section 32 to carry out the provisions of subsection (a) of this section shall be reimbursed out of any supplemental appropriation hereafter enacted for the purpose of carrying out the provisions of such subsection, and such reimbursements shall be deposited into the fund established pursuant to such section 32, to be available for the purpose of such section.

(c) Whenever any program is carried out by the Secretary under authority of this section through any State or local or nonprofit

[16] Sec. 17 was added to Public Law 92-433, 86 Stat. 724, approved, Sept. 26, 1972.
[17] Subsection (a) was amended by Public Law 93-150, 87 Stat. 560, approved Nov. 7, 1973.
[18] Subsection (b) was amended by Public Law 93-150, 87 Stat. 560, approved Nov. 7, 1973.
[19] This sentence was amended by Public Law 93-326, 88 Stat. 286, approved June 30, 1974.

agency, he is authorized to pay administrative costs not to exceed 10 per centum of the Federal funds provided under the authority of this section.

(d) The eligibility of persons to participate in the program provided for under subsection (a) of this section shall be determined by competent professional authority. Participants shall be residents of areas served by clinics or other health facilities determined to have significant numbers of infants and pregnant and lactating women at nutritional risk.

(e) State or local agencies or groups carrying out any program under this section shall maintain adequate medical records on the participants assisted to enable the Secretary to determine and evaluate the benefits of the nutritional assistance provided under this section. The Secretary and Comptroller General of the United States shall submit preliminary evaluation reports to the Congress not later than October 1, 1974; and not later than March 30, 1975, submit reports containing an evaluation of the program provided under this section and making recommendations with regard to its continuation.[20]

(f) As used in this section—

(1) "Pregnant and lactating women" when used in connection with the term at "nutrition risk" includes mothers from low-income populations who demonstrate one or more of the following characteristics: known inadequate nutritional patterns, unacceptably high incidence of anemia, high prematurity rates, or inadequate patterns of growth (underweight, obesity, or stunting). Such term (when used in connection with the term "at nutritional risk") also includes low-income individuals who have a history of high-risk pregnancy as evidenced by abortion, premature birth, or severe anemia.

(2) "Infants" when used in connection with the term "at nutritional risk" means children under four years of age who are in low-income populations which have shown a deficient pattern of growth, by minimally acceptable standards, as reflected by an excess number of children in the lower percentiles of height and weight. Such term, when used in connection with "at nutritional risk", may also include (at the discretion of the Secretary) children under four years of age who (A) are in the parameter of nutritional anemia, or (B) are from low-income populations where nutritional studies have shown inadequate infant diets.

(3) "Supplemental foods" shall mean those foods containing nutrients known to be lacking in the diets of populations at nutritional risks and, in particular, those foods and food products containing high-quality protein, iron, calcium, vitamin A, and vitamin C. Such term may also include (at the discretion of the Secretary) any food products commercially formulated preparation specifically designed for infants.

(4) "Competent professional authority" includes physicians, nutritionists, registered nurses, dieticians, or State or local medically trained health officials, or persons designated by physicians or State or local medically trained health officials as being competent professionally to evaluate nutritional risk.

[20] Amended by Public Law 93-150, 87 Stat. 560, approved Nov. 7, 1973.

RELATED PROVISIONS OF LAW

SECTION 10—NATIONAL SCHOOL LUNCH AND CHILD NUTRITION ACT AMENDMENTS OF 1973

(PUBLIC LAW 93-150)[1]

COMPREHENSIVE STUDY OF BENEFITS OF PROGRAMS

SEC. 10.[2] The Secretary of Agriculture is authorized and directed to carry out a comprehensive study to determine if the benefits of programs carried out under the National School Lunch Act and Child Nutrition Act are accruing to the maximum extent possible to all of the nation's school children, including a study to determine if those most in need are receiving free lunches, and to determine if significant regional cost differentials exist in Alaska and other States so as to require additional reimbursement. The Secretary shall report his findings, together with any recommendations he may have with respect to additional legislation, to the Congress no later than June 30, 1974. The Secretary shall consider any recommendations made by the Department of Health, Education, and Welfare, the General Accounting Office, the National Advisory Council on Child Nutrition, and interested professional organizations or individuals in the field of child care and nutrition. Alternatives to the present structure, including but not limited to the universal feeding program, shall be included in the study.

SECTION 4—ACT OF SEPTEMBER 26, 1972

(Public Law 92-433)[3]

ADDITIONAL MISCELLANEOUS PROVISIONS

SEC. 4.[4] (a) Notwithstanding any other provision of law, the Secretary of Agriculture shall until such time as a supplemental appropriation may provide additional funds for such purpose use so much of the funds appropriated by section 32 of the Act of August 24, 1935 (7 U.S.C. 612(c)), as may be necessary, in addition to the funds available therefor, to carry out the purposes of section 4 of the

[1] Public Law 93-150, 87 Stat. 560, approved Nov. 7, 1973, provides additional Federal financial assistance to the school lunch and school breakfast programs.
[2] Sec. 10 was added by Public Law 93-150, 87 Stat. 560, approved Nov. 7, 1973.
[3] Public Law 92-433, 86 Stat. 724, requires a survey and report by the Secretary of Agriculture on unmet needs for food service equipment in schools eligible for equipment assistance to the Congress by June 30, 1973.
[4] Sec. 4 was added by Public Law 92-433, 86 Stat. 724, approved Sept. 26, 1972.

National School Lunch Act and provide an average rate of reimbursement of not less than 8 cents per meal within each State during the fiscal year 1973. Funds expended under the foregoing provisions of this section shall be reimbursed out of any supplemental appropriation hereafter enacted for the purpose of carrying out section 4 of the National School Lunch Act, and such reimbursements shall be deposited into the fund established pursuant to section 32 of the Act of August 24, 1935 to be available for the purposes of said section 32.

(b) Funds made available pursuant to this section shall be apportioned to the States in such manner as will best enable schools to meet their obligations with respect to the service of free and reduced-price lunches and to meet the objective of this section with respect to providing a minimum rate of reimbursement under section 4 of the National School Lunch Act, and such funds shall be apportioned and paid as expeditiously as may be practicable.

SECTION 7—ACT OF NOVEMBER 5, 1971

(PUBLIC LAW 92–153)[5]

SEC. 7. In addition to any other authority given to the Secretary he is hereby authorized to transfer funds from section 32 of the Act of August 24, 1935, for the purpose of assisting schools which demonstrate a need for additional funds in the school breakfast program.

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[5] Public Law 92–153, 85 Stat. 419, approved Nov. 5, 1971, was a joint resolution to assure that every needy schoolchild receive a free or reduced price lunch as required by sec. 9 of the National School Lunch Act.

[NOTE.—With the exception of sec. 4 of this Act which amends section 11(e) of the National School Lunch Act, and Section 7 supra, Public Law 92–153 expired June 30, 1971.]

AUTHORITIES FOR COMMODITY DISTRIBUTION

SECTION 32—ACT OF AUGUST 24, 1935

(PUBLIC LAW 74–320)[1]

SEC. 32. There is hereby appropriated for each fiscal year beginning with the fiscal year ending June 30, 1936, an amount equal to 30 per centum of the gross receipts from duties collected under the customs laws during the period January 1 to December 31, both inclusive, preceding the beginning of each such fiscal year.[2] Such sums shall be maintained in a separate fund and shall be used by the Secretary of Agriculture only to (1) encourage the exportation of agricultural commodities and products thereof by the the payment of benefits in connection with the exportation thereof or of indemnities for losses incurred in connection with such exportation or by payments to producers in connection with the production of that part of any agricultural commodity required for domestic consumption; (2) encourage the domestic consumption of such commodities or products by diverting them, by the payment of benefits or indemnities or by other means, from the normal channels of trade and commerce or by increasing their utilization through benefits, indemnities, donations or by other means, among persons in low-income groups as determined by the Secretary of Agriculture; and (3) reestablish farmers' purchasing power by making payments in connection with the normal production of any agricultural commodity for domestic consumption. Determinations by the Secretary as to what constitutes diversion and what constitutes normal channels of trade and commerce and what constitutes normal production for domestic consumption shall be final.

The sums appropriated under this section shall be expended for such one or more of the above-specified purposes, and at such times, in such manner, and in such amounts as the Secretary of Agriculture finds will effectuate substantial accomplishment of any one or more

[1] The Act of August 24, 1935, 49 Stat. 750, 774. Although this section has been amended a number of times. The purposes of Section 32—through payments or indemnities is to encourage the exportation and domestic consumption of agricultural commodities and products and to reestablish farmers' purchasing power in connection with the normal production of agricultural commodities—remains basically the same since February 29, 1936. Authority to encourage consumption of agricultural commodities and products by their utilization among persons in low-income groups was added by amendment of clause (2) in 1939 (53 Stat. 975). Later amendments are noted.

Surplus agricultural commodities purchased under clause (2) may be donated for relief purposes and for use in nonprofit summer camps for children under the Act of June 28, 1937, and may be donated to schools and service institutions under sections 9 and 13 of the National School Lunch Act, as amended, and section 8 of the Child Nutrition Act of 1966.

[2] Section 205 of the Agricultural Act of 1956 authorized the appropriation for each fiscal year, beginning with the fiscal year ending June 30, 1957, of $500,000,000 to enable the Secretary of Agriculture to further carry out the provisions of Section 32, subject to all provisions of law relating to the expenditure of funds appropiated by such section, except that up to 50 pecent of the $500,000,000 may be devoted during any fiscal year to any one agricultural commodity or the products thereof.

of the purposes of this section.[3] Notwithstanding any other provision of this section, the amount that may be devoted, during any fiscal year after June 30, 1939, to any one agricultural commodity or the products thereof in such fiscal year, shall not exceed 25 per centum of the funds available under this section for such fiscal year. The sums appropriated under this section shall be devoted principally to perishable nonbasic agricultural commodities (other than those receiving price support under title II of the Agricultural Act of 1949)[4] and their products.[5] The sums appropriated under this section shall, notwithstanding the provisions of any other law, continue to remain available for the purposes of this section until expended; but any excess of the amount remaining unexpended at the end of any fiscal year over $300,000,000 shall, in the same manner as though it had been appropriated for the service of such fiscal year, be subject to the provisions of section 3690 [6] of the Revised Statutes (U.S.C., title 31, sec. 712), and section 5 [6] of the Act entitled "An Act making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June thirtieth, eighteen hundred and seventy-five and for other purposes" (U.S.C., title 31, sec. 714).[7] (7 U.S.C. 612c)

SECTION 4—AGRICULTURE AND CONSUMER PROTECTION ACT OF 1973

(PUBLIC LAW 93–347)

SEC. 4.[8] (a)[9](1) Notwithstanding any other provision of law, the Secretary of Agriculture shall until July 1, 1975, (i) use funds available under provisions of section 32 of Public Law 320, Seventy-fourth Congress, as amended (7 U.S.C. 612c), and not otherwise expended or necessary for such purposes to purchase, without regard to the provisions of existing law governing the expenditure of public funds, agricultural commodities and their products of the types customarily purchased under section 32 (which may include seafood commodities and their products) to maintain the traditional level of assistance for food assistance programs as are authorized by law, including but not limited to distribution to needy families pending the transition to the food stamp program, institutions, supplemental feeding programs wherever located, disaster relief, summer camps for children, and the family commodity distribution program on Indian reservations not requesting a food stamp program, and (ii) if stocks of the Commodity Credit Corporation are not available, use the funds of the Corporation to purchase agricultural commodities and their products of the types customarily available under section 416 of the Agricultural Act of 1949 to meet such requirements.

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[3] For the administration of sec. 32, not to exceed 4 percent of the total amount available for such section in any fiscal year may be used for that purpose under the limitation contained in sec. 392(b) of the Agricultural Act of 1938, as amended.

[4] The clause within the parentheses was substituted for "other than those designated in title II of the Agricultural Act of 1949" by sec. 5 of the Act of Jan. 30, 1954, 68 Stat. 4.

[5] This sentence was added by sec. 411 of the Agricultural Act of 1949, 63 Stat. 1057.

[6] Superseded by the Act of July 6, 1949, 63 Stat. 407, 31 U.S.C. 712a, and the Act of July 25, 1956, 70 Stat. 647, as amended, 31 U.S.C. 701–708.

[7] This sentence was added by sec. 301 of the Agricultural Act of 1948, July 3, 1948, 62 Stat. 1237. See sec. 392(b) of the Agricultural Adjustment Act of 1938, as amended, for limitation on administrative expenses.

[8] Sec. 4 was enacted by Public Law 93–86, 87 Stat. 221, approved Aug. 10, 1973.

[9] Subsection (a) has been substituted by Public Law 93–347, 88 Stat. 340, approved July 12, 1974.

(2) Notwithstanding any other provision of law, the Secretary of Agriculture shall, during each of the two fiscal years beginning July 1, 1975, and ending June 30, 1977, purchase agricultural commodities and otherwise carry out the provisions of this subsection with funds appropriated from the general fund of the Treasury. There are hereby authorized to be appropriated such funds as may be necessary to carry out the provisions of this paragraph. Authority provided in this paragraph shall be carried out only with such funds as are appropriated from the general fund of the Treasury for that specific purpose, and in no event shall it be carried out with funds derived from permanent appropriations.

(b) The Secretary is prohibited from furnishing commodities to summer camps as authorized under section 416 of the Agricultural Act of 1949, section 32 of Public Law 74–320, and section 709 of the Food and Agriculture Act of 1965 if the number of adults participating in the activities of such camp is in excess of one for each five children under 18 years of age participating in such activities.

(c) No individual who receives supplemental security income benefits under title XVI of the Social Security Act shall be considered to be a member of a household for any purpose of the Food Distribution Program for families under section 32 of Public Law 74–320, section 416 of the Agricultural Act of 1949, or other law for any month if such person receives for such month, as part of his supplemental security income benefits or payments described in section 1616(a) of the Social Security Act (if any), an amount equal to the bonus value of food stamps (according to the Food Stamp Schedule effective for July 1973) in addition to the amount of assistance such individual would be entitled to receive for such month under the provisions of the plan of the State approved under title I, X, XIV, or XVI, as appropriate, in effect for December 1973, assuming such plan were in effect for such month and such individual were aged, blind, or disabled, as the case may be, under the provisions of such State plan or under Public Law 92–603 as amended. The Secretary of Health, Education, and Welfare shall issue regulations for the implementation of the foregoing sentence after consultation with the Secretary of Agriculture.

SECTION 416—AGRICULTURAL ACT OF 1949

(PUBLIC LAW 81–439)

DISPOSITION OF COMMODITIES TO PREVENT WASTE

SEC. 416.[10] In order to prevent the waste of commodities whether in private stocks or[11] acquired through price-support operations by the Commodity Credit Corporation before they can be disposed of in nor-

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[10] The provisions of this section were substituted for the previous provisions by section 302 of the Agricultural Trade Development and Assistance Act of 1954, 68 Stat. 458. See section 9 of the Act of September 6, 1958, 72 Stat. 1792 (on p. 244) providing for distribution of commodities under section 416 to overseas areas under the jurisdiction or administration of the United States.

The Food for Peace Act of 1966, Pub. L. 89–808, 80 Stat. 1538, approved November 11, 1966, deleted all references to foreign donations from section 416. Such deletions are effective January 1, 1967.

[11] The words "whether in private stocks or" were added by the Act of July 24, 1959, 73 Stat. 250.

mal domestic channels without impairment of the price-support program or sold abroad at competitive world prices, the Commodity Credit Corporation is authorized, on such terms and under such regulations as the Secretary may deem in the public interest: (1) upon application, to make such commodities available to any Federal agency for use in making payment for commodities not produced in the United States; (2) to barter or exchange such commodities for strategic or other materials as authorized by law; (3) in the case of food commodities to donate such commodities to the Bureau of Indian Affairs and to such State, Federal, or private agency or agencies as may be designated by the proper State or Federal authority and approved by the Secretary, for use in the United States in nonprofit school-lunch programs,[12] in nonprofit summer camps for children,[13] in the assistance of needy persons, and in charitable institutions, including hospitals, to the extent that needy persons are served. In the case of (3) the Secretary shall obtain such assurance as he deems necessary that the recipients thereof will not diminish their normal expenditures for food by reason of such donation. In order to facilitate the appropriate disposal of such commodities, the Secretary may from time to time estimate and announce the quantity of such commodities which he anticipates will become available for distribution under (3). The Commodity Credit Corporation may pay, with respect to commodities disposed of under this section, reprocessing, packaging, transporting, handling, and other charges accruing up to the time of their delivery to a Federal agency or to the designated State or private agency. In addition, in the case of food commodities disposed of under this section, the Commodity Credit Corporation may pay the cost of processing such commodities into a form suitable for home or institutional use, such processing to be accomplished through private trade facilities to the greatest extent possible.[14] For the purpose of this section the terms "State" and "United States" include the District of Columbia and any Territory or possession of the United States. Dairy products acquired by the Commodity Credit Corporation through price support operations may, insofar as they can be used in the United States in nonprofit school lunch and other nonprofit child feeding programs, in the assistance of needy persons, and in charitable institutions, including hospitals, to the extent that needy persons are served, be donated for any such use prior to any other use or disposition.[15] (7 U.S.C. 1431.)

SECTION 709—FOOD AND AGRICULTURE ACT OF 1965

(PUBLIC LAW 89-321)

PURCHASE OF DAIRY PRODUCTS

SEC. 709. The Secretary of Agriculture is hereby authorized to use funds of the Commodity Credit Corporation to purchase sufficient

[12] See Act of September 13, 1960, 74 Stat. 899 (p. 243) authorizing the use of surplus foods for training home economics students.
[13] The words "in nonprofit summer camps for children," were added by the Act of July 2, 1958, 72 Stat. 286.
[14] This sentence was added by the Agricultural Act of 1956, 70 Stat. 203.
[15] This last sentence was added by Pub. L. 91-233, 84 Stat. 199, approved April 17, 1970.

supplies of dairy products at market prices to meet the requirements of any programs for the schools (other than fluid milk in the case of schools), domestic relief distribution, community action, and such other programs as are authorized by law, when there are insufficient stocks of dairy products in the hands of Commodity Credit Corporation available for these purposes. (7 U.S.C. 1446a–1.)

Commodities for Summer Camps

Act of June 28, 1937, as amended[16]

To extend the time for purchase and distribution of surplus argicultural commodities for relief purposes and to continue the Federal Surplus Commodities Corporation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in carrying out the provisions of clause (2) of section 32 of the Act approved August 24, 1935 (49 Stat. 77), as amended, the Secretary of Agriculture may transfer to the Federal Surplus Commodities Corporation,[17] which Corporation is continued, until June 30, 1945, as an agency of the United States under the direction of the Secretary of Agriculture, such funds, appropriated by said section, as may be necessary for the purpose of effectuating clause (2) of said section: *Provided*, That such transferred funds, together with other funds of the Corporation, may be used for purchasing, exchanging, processing, distributing, disposing, transporting, sorting, and handling of agricultural commodities and products thereof and inspection costs, commissions, and other incidental costs and expenses, without regard to the provisions of existing law governing the expenditure of public funds and for administrative expenses, including rent, printing and binding, and the employment of persons and means, in the District of Columbia, and elsewhere, such employment of persons to be in accordance with the provisions applicable to the employment of persons by the Agricultural Adjustment Administration.

In carrying out clause (2) of section 32, the funds appropriated by said section may be used for the purchase, without regard to the provisions of existing law governing the expenditure of public funds, of agricultural commodities and products thereof and such commodities, as well as agricultural commodities and products thereof purchased under the preceding paragraph of this section, may be donated for relief purposes and for use in nonprofit summer camps for children.[18] (15 U.S.C. 713c.)

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[16] 50 Stat. 323; February 16, 1938, 52 Stat. 31, 38, ... une 27, 1942, 56 Stat. 461.

[17] The functions of the Federal Surplus Commodities Corporation have been transferred to the Secretary of Agriculture (7 U.S.C. 612a, note) and the Corporation has been dissolved.

[18] The last nine words were added by the Act of July 2, 1957, 72 Stat. 286.

[Note.—Pub. L. 89–321, 79 Stat. 1212, approved November 3, 1965, amended by Pub. L. 89–808, 80 Stat. 1538, approved November 11, 1966. The words "foreign distribution" appearing after the words "community action"' were deleted by Pub. L. 89–808.]

Title II of P.L. 83–690, P.L. 84–465, P.L. 85–478, and P.L. 87–128 directly relate to the use of dairy products. For current legislation refer to section 3 of the Child Nutrition Act of 1966 as amended.